

REMARKS

Claims 1-6 are pending in this application.

The claims have been amended to more particularly pointing out and distinctly claim the subject matter which applicants regard as their invention. No new matter was added.

Applicants request consideration of the pending claims 1-6.

Election/Restriction

Claims 1-7 in this application have been restricted into two groups:

Group I, claims 1-6, drawn to a method of case hardening a Ti, Zr, Ti alloy, or Zr alloy article; and

Group II, claim 7, drawn to a case hardened Ti, Zr, Ti alloy, or Zr alloy article.

Applicants' representative provisionally elected, without traverse, to prosecute the invention of Group I, claims 1-6, on July 5, 2006. Applicants' representative hereby affirms the election to prosecute the invention of Group I, claims 1-6, and cancel Group II, claim 7, without prejudice, in this application.

Applicants reserve the right to file one or more continuation or divisional applications for the unelected claims at a later date.

Claim Rejections - 35 U.S.C. § 112

Claims 1-6 were rejected under 35 U.S.C. 112, second paragraph.

With regard to claim 1, the unclear phrase "at a pressure *in* the order of atmosphere pressure in an oxygen diffusion atmosphere" has been amended to read "at a pressure on the order of atmosphere pressure in an oxygen diffusion atmosphere."

With regard to claim 4, the phrase "with the balance being non-reactive carrier gas" was added for clarification.

Applicants thank the Examiner for his suggestion in amending this claim.

On the basis of these amendments, applicants submit that claims 1-6 are patentable. Accordingly, applicants respectfully request reconsideration and

withdrawal of the rejection to claims 1-6, as amended, based on 35 U.S.C. 112, second paragraph.

Allowable Subject Matter

Applicants gratefully acknowledge the Examiner's careful review of the present application, and his suggestion that claims 2-6 would be allowable if rewritten to overcome the claim rejections to 35 U.S.C. 112, second paragraph as discussed above, and to include all of the limitations of the base claim and any intervening claims. Accordingly, claims 3, 4 and 6 have been renumbered to include the limitations of the base and intervening claims.

Conclusion:

Applicants respectfully submit that the present application is in condition for allowance. Early notice to that end is earnestly solicited.

If a telephone conference would be of assistance in furthering prosecution of the subject application, applicants request that the undersigned be contacted at the number below.

Respectfully submitted,



Bernard Lau
Reg. No. 38,218
Attorney for Applicants
Tel: (908) 771-1320
Fax: (908) 771-6159

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The BOC Group, Inc.
Legal Services - IP Dept.
575 Mountain Ave.
Murray Hill, NJ 07974